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REMARKS

This response is intended as a full and complete response to the non-final Office Action mailed June 15, 2005. In the Office Action, the Examiner notes that claims 1-19 are pending, of which claims 1-19 are rejected. By this response, claims 1 and 3 have been amended. Claims 2 and 4-19 remain unamended.

In view of both the amendments presented above and the following discussion, Applicants submit that none of the claims now pending in the application are obvious under the provisions of 35 U.S.C. §103. Thus, Applicants believe that all of these claims are now in allowable form.

It is to be understood that Applicants, by amending the claims, do not acquiesce to the Examiner's characterizations of the art of record or to Applicants' subject matter recited in the pending claims. Further, Applicants are not acquiescing to the Examiner's statements as to the applicability of the art of record to the pending claims by filing the instant responsive amendments.

REJECTIONS

35 U.S.C. §103

Claims 1-19

The Examiner has rejected claims 1-19 as being obvious and unpatentable under the provisions of 35 U.S.C. §103(a). In particular, the Examiner has rejected claims 1-18 as being unpatentable over Pocock et al. (U.S. Patent No. 5,014,125, hereinafter "Pocock") in further view of Swenson et al. (U.S. Patent No. 6,064,380, hereinafter "Swenson") and Garfinkle (U.S. Patent No. 5,400,402, hereinafter "Garfinkle"). Applicants respectfully traverse the rejection.

Pocock fails to teach, disclose, motivate or suggest Applicants' information distribution system as recited in Applicants' independent claim 1. In particular, Applicants' independent claim 1 recites:

> 1. In an interactive information distribution system utilizing an open session to provide requested information, a method comprising:
> (a) receiving a title selection request from a set top terminal; and

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    (b)   if the title selection request is an initial request for said title by said set top terminal, performing the steps of:

        opening a session with said set top terminal including determining, at a network management system, a use time associated with said requested title;

        sending the determined use time to a session control manager;

        monitoring, at said session control manager, said use time associated with said requested title;

        streaming said requested title to said set top terminal for display within constraints of said use time; and

    (c)   if the title selection request is a subsequent request for said title of a previously terminated session with said set top terminal existing, performing the steps of:

        restoring said terminated session; and

        providing said requested title to said set top terminal if said use time associated with said requested title has not expired.

The test under 35 U.S.C. §103 is not whether an improvement or a use set forth in a patent would have been obvious or non-obvious; rather the test is whether the claimed invention, considered as a whole, would have been obvious. Jones v. Hardy, 110 USPQ 1021, 1024 (Fed. Cir. 1984) (emphasis added). Thus, it is impermissible to focus either on the "gist" or "core" of the invention, Bausch & Lomb, Inc. v. Barnes-Hind/Hydrocurve, Inc., 230 USPQ 416, 420 (Fed. Cir. 1986) (emphasis added). Moreover, the invention as a whole is not restricted to the specific subject matter claimed, but also embraces its properties and the problem it solves. In re Wright, 6 USPQ 2d 1959, 1961 (Fed. Cir. 1988) (emphasis added). The combination of Pocock, Swenson, and Garfinkle fails to teach or suggest Applicants' invention as a whole.

In particular, Pocock is directed to an interactive television system employing a telephone connection in a two way manner to send command signals from a viewer to a central controller to select various presentations and to send the audio portion of such presentations from a central location to individual viewers. Pocock is completely silent respect to at least "determining, at a network management system, a use time associated with said requested title; sending the determined use time to a session control manager; monitoring, at said session control manager, said use time associated with said requested title."

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Furthermore, Swenson and Garfinkle fail to bridge the substantial gap as between Pocock and Applicants' invention. In particular, Swenson discloses "a web browser installed on a terminal for accessing web pages." In particular, the Swenson reference discloses "if a user click on the "Stop & Save Position" button, the file being played will be stopped and the position at which the file was stopped will be saved to persistent memory such the user's disk drive or in a data file associated with the user's browser program and stored on the user's hard drive. The position at which the multimedia presentation was terminated may also be transferred to the server or other persistent memory location for storage in persistent memory associated with the multimedia file or with other user data." (see Swenson, Column 4, Line 65 to Column 5, Line 7). Furthermore, Garfinkle discloses "a control system <u>at the customer site that operates independently of the central station once the program has been down-loaded</u>... In another embodiment, the down-loaded data includes instructions that specify and controls the number of times the stored data may be accessed, or the period during which the stored material may be accessed, or any combination thereof." (see Garfinkle, Column 2, Lines 20-37).

The combined references fail to teach or suggest Applicants' claimed features including "determining, at a network management system, a use time associated with said requested title; sending the determined use time to a session control manager; monitoring, at said session control manager, said use time associated with said requested title." Even if the references could somehow be operably combined, the combination would merely disclose initiating a video session, downloading requested content from a provider to a set top terminal, <u>storing the downloaded content at the set top terminal</u>, and either erasing or scrambling the stored content after it has been viewed for a predetermined number of times or after a predetermined interval. Thus, the teachings of the references are completely different than the Applicant's invention.

Specifically, Garfinkle teaches that the content is stored at the set top terminal and the use time is encoded in the downloaded data, as opposed to being controlled by the network management system. That is, Applicants' invention <u>determines use time at a network management system, communicates determined use time to a session control manager, and monitors, at the session control manager, a use time associated</u>

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with the requested title. The session control manager shown in FIG. 1 of Applicants' invention is part of the provider equipment, as opposed to the customer equipment (i.e., set top terminal). All three references are silent regarding the interaction between the remotely located network management system and session control manager. Therefore, the combined teachings of Pocock, Swenson, and Garfinkle are different from Applicants' claimed invention, since they fail to teach or suggest Applicants' invention as a whole.

Furthermore, there is no motivation to combine the references because the references are solving different problems, and the prior art does not suggest the desirability of the combination. In particular, none of the references suggests the problem of managing open sessions between a set top terminal and the provider equipment including network management system and session control manager. Moreover, none of the references even suggest the desirability of including use time with managing open session including the interaction between the remotely located network management system and session control manager as claimed. More specifically, in order to support such user interactivity, the concept of an open session has been implemented within the system. When a title is purchased an open session is created. The open session is associated with the account that purchased the title and stores the current use and view time available for a title. The view time is the actual amount of time the title is available for a user to watch a title. The use time is the actual time a user is allowed to physically watch a title. For example, the use time may be two times the length of the title and the view time may be 24 hours, meaning a title can be watch a total of two times in the next 24 hours. The maintenance of the open session is a joint effort between the video session manager (VSM) 106 and the network management system (NMS) 114 described above with respect to FIG. 1." (see Applicants' specification, Page 26, Lines 12-23).

Accordingly, since the combined references fail to teach, motivate or suggest "determining, at a network management system, a use time associated with said requested title; sending the determined use time to a session control manager; monitoring, at a session control manager, a use time associated with said requested title," the combined references fail to teach or suggest Applicants' invention as a whole.

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As such, Applicants submit that independent claim 1 is patentable under 35 U.S.C. §103(a) over Pocock in further view of Swenson and Garfinkle. Furthermore, claims 2-19 depend directly or indirectly from independent claim 1 and recite additional features thereof. As such and for at least the same reasons discussed above, Applicants submit that these dependent claims are not obvious and fully satisfy the requirements of 35 U.S.C. §103. Therefore, Applicants respectfully submit that the Examiner's rejection of claims 1-19 should be withdrawn.

CONCLUSION

Thus, Applicants submit that all of the claims presently in the application, are non-obvious and patentable under the provisions of 35 U.S.C. §103. Accordingly, both reconsideration of this application and its swift passage to issue are earnestly solicited.

If, however, the Examiner believes that there are any unresolved issues requiring adverse final action in any of the claims now pending in the application, it is requested that the Examiner telephone Eamon J. Wall, Esq. at (732) 530-9404 so that appropriate arrangements can be made for resolving such issues as expeditiously as possible.

Respectfully submitted,

Dated: _9/15/05_   _E/MJall_

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